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In re Application of	:	DECISION ON
FOCKE et al	:	
PCT No.: PCT/EP03/03754	:	
Application No.: 10/509,561	:	PAPERS FILED
Int. Filing Date: 11 April 2002	:	
Priority Date: 25 April 2002	:	
Attorney's Docket No.: 20605.016US	:	UNDER 37 CFR 1.42
For: CIGARETTE PACK COMPRISING	:	
A SLIDE AND CASE	:	

This is a decision on the declaration filed 27 September 2004, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 27 September 2004, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), and an executed declaration signed by Doris FOCKE and Jurgen FORKE as heirs to deceased inventor Heinz FOCKE.

DISCUSSION

The declaration is unacceptable because the declaration does not state that Doris FOCKE and Jurgen FORKE are all the heirs for the deceased inventor or the legal representatives for the deceased inventor, Heinz FOCKE. (see MPEP § 409.01(a)).

That is, there may be other heirs who are required to also sign the declaration. The declaration must indicate that Doris FOCKE and Jurgen FORKE are all heirs for the deceased inventor or are the legal representatives for the deceased inventor, Heinz FOCKE, to accept the application under 37 CFR 1.42. A statement by Doris or Jurgen or their attorney which sets forth that they are in fact all the heirs of the deceased inventor if there are no other heirs.

In addition, the declaration did not satisfy 37 CFR §1.497(b)(2) because it did not state the citizenship, residence, and mailing address of the all the heirs and the deceased inventor.


Moreover, a submission of a declaration executed by all of the heirs of the deceased inventor is construed as an indication that no legal representative of the deceased's estate has been appointed or is statutorily required to be appointed. If this interpretation is incorrect applicants are required to promptly notify the Office of such and submit a declaration properly executed by the legal representative(s) of the deceased inventor.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **not accepted**.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.42." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the office of PCT Legal Administration.


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